Crl.Misc.No.6221 of 2007 in
Crl.Revision No.175 of 2007 (O&M)

****

Present:- Ms.Anjali Kukar, Advocate for
Mr.Tarun Khanna, Advocate for the petitioner.

Mr.B.S.Sra, Advocate for respondent No.1.

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It is stated on behalf of the petitioner that in deference to order dated February 01, 2007, the matter has been compromised with the respondent-complainant. Learned counsel for the respondent No.1-complainant does not dispute the above-stated stand taken on behalf of the petitioner. He, further, states that the respondent-complainant has already received the entire payment.

However, learned counsel for the petitioner is not present and has gone to hospital to attend some urgent call.

Adjourned to 24.4.2007.

Meanwhile, the sentence awarded to the petitioner by the learned Chief Judicial Magistrate, Ropar vide his judgment and order dated 5.4.2004 which has been further upheld by the learned Additional Sessions Judge, Ropar vide his judgment dated 17.1.2007, is ordered to be suspended and the petitioner is directed to be released on bail to the satisfaction of the Chief Judicial Magistrate, Ropar.

Copy of the order be given Dasti on payment of usual charges.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

Crl.W.P.No.154 of 2007

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Present:- Mr.Mahabir Singh, Advocate for the petitioner.

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After hearing learned counsel for the petitioner and having perused the scant material on record, I am satisfied that no opinion with regard to the illegal detention/confinement of the persons mentioned in para 2 of the petition at the hands of respondents No.3 and 4, can be made out in these proceedings.

Under Sections 10 to 12 of the Bonded Labour System (Abolition) Act, 1976, the District Magistrate concerned has got ample statutory powers not only to prohibit the practice of forced labour system, he is also obligated to promote the welfare of the freed bonded labourers by securing their economic interests.

If so advised, the petitioner shall be at liberty to approach the District Magistrate, Jalandhar, who is directed to act promptly in accordance with law and take all necessary actions which may be required.

Disposed of.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

Crl.Misc.No.952-M of 2007

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Present:- Mr.Sarabjit Hira, Advocate for the petitioners.

Mr.B.S.Baath, AAG, Punjab for respondent No.1.

Mr.Naresh Kaushik, Advocate for respondent No.2.

****

As requested by learned counsel for respondent No.2, adjourned to 12.3.2007.

Meanwhile, reply, if any, be filed.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

Crl.Misc.No.32864-M of 2006

****

Present:- Mr.Munish Bhardwaj, Advocate for the petitioner.

Mr.Kultar Singh Bhangru, Advocate for respondent No.3.

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Reply filed on behalf of respondent No.3 is taken on record.

As requested by learned counsel for the petitioner, adjourned to 24.4.2007 for arguments.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.27313-M of 2006
Date of Decision:- 20.02.2007

Yash Pal & anr. ....Petitioner(s)

through
Mr.Amit Rawal, Advocate

vs.

State of Punjab & anr. ....Respondent(s)

through
Mr.B.S.Baath, AAG, Punjab.
Ms.Ruchi Sebhri, Advocate for No.2.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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SURYA KANT, J.

The prayer in this petition is for quashing of F.I.R.No.48 dated 27.4.2005 under Sections 406/120-B IPC registered at Police Station City, Gurdaspur as well as all the proceedings arising therefrom.

Though the respondents have filed a written statement contesting the aforesaid claim, however, Mr.Baath, learned Assistant Advocate General, Punjab, on instructions from ASI Samma Singh, informs that during the pendency of this petition, a cancellation report has been prepared which has been duly approved by the Sr.Superintendent of Police, Gurdaspur and the same is likely to be presented very soon before the Court of Competent Jurisdiction.

In this view of the matter, since the petitioners have got the desired relief, no further direction is required to be issued at this stage.

Consequently, this petition is disposed of with a direction to the respondents to submit the cancellation report, referred to above, within two weeks from today before the learned trial Court.

As an abundant precaution, liberty is granted to the petitioners to get this petition revived, if so required.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.20827-M of 2006
Date of Decision:- 20.02.2007

Mandeep Singh ....Petitioner(s)

through
Mr.Vishal Sharma, Advocate

vs.

State of Punjab ....Respondent(s)

through
Mr.B.S.Baath, AAG, Punjab.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

***

SURYA KANT, J.

In this petition, the petitioner impugns the order dated 15.4.2004 passed by the learned Additional Sessions Judge (Ad hoc), Ludhiana whereby he has been summoned under Section 319 Cr.P.C. to face trial in case F.I.R.No.21 dated 29.2.2000 registered under Sections 323/324/364/511/148/149 Cr.P.C. at Police Station, Division No.2, Ludhiana.

There is no denial to the fact that along with the petitioner one Shashi Sharma was also summoned to face trial in the above-stated case vide the said impugned order. The said Shashi Sharma had filed Crl.Misc.No.19828-M of 2005 which was disposed of by this Court vide order dated September 22, 2005 (Annexure P-2) whereby the operation of the summoning order qua Shashi Sharma was stayed and the trial proceedings in the F.I.R. in question qua him were directed to be kept in abeyance till the Sessions trial case pursuant to F.I.R.No.20 dated 9.2.2004 under Sections 302/34/120-B IPC and 25/54/59 of the Arms Act registered at Police Station, Haibowal District Ludhiana, is decided.

For the reasons already given in **Shashi Sharma's case** (supra), this petition is disposed of with a direction that the order dated April 15, 2004 whereby the petitioner has been summoned to face trial as well as the trial proceedings arising out of F.I.R.No.21 dated 29.2.2000 registered under Sections 323/324/364/511/148/149 Cr.P.C. at Police Station, Division No.2, Ludhiana shall also remain in abeyance till the sessions trial in F.I.R.No.20 dated 9.2.2004 under Sections 302/34/120-B IPC and 25/54/59 of the Arms Act registered at Police Station, Haibowal District Ludhiana is decided. Thereafter, it will be open for the complainant (Raman Rana) and/or the petitioner, as the case may be, to move an application to get the present proceedings revived after the conclusion of the trial in the above-mentioned murder case. It is also directed that the personal appearance of the petitioner before the learned trial Court shall remain exempted till the proceedings are got revived, if so advised.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Appeal No.2228-SB of 2006
Date of Decision:- 20.02.2007

State of Punjab ....Petitioner(s)

through
Mr.B.S.Baath, AAG, Punjab.

vs.

Gursharan Mohan ....Respondent(s)

through
None.

***

CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

***

SURYA KANT, J.

The respondent has been found guilty of taking illegal gratification of Rs.500/- and consequently, he has been convicted under Section 7, 13(2) of the Prevention of Corruption Act, 1988.

The learned Special Judge, Roopnagar thereafter considered the issue of quantum of sentence. Having regard to the fact that the respondent is a first offender and keeping in view his age, character and antecedents etc., the learned Special Judge deemed it appropriate to sentence the petitioner to undergo rigorous imprisonment for one and a half year and to pay a fine of Rs.1,000/-, in default whereof, to further undergo rigorous imprisonment for a period of three months.

The State of Punjab has preferred this appeal *inter alia* contending that the respondent has not been suitably sentenced.

It is true that in order to curb the menace of corruption in public life, effective and remedial measures are required to be taken and a harsh punishment should be given to guilty of committing such an offence, however, once the learned trial Court, on a consideration of the relevant

material, has formed a conscious view in relation to the quantum of sentence, it does not warrant any interference by the appellate court unless it is highly disproportionate and/or a mere eye wash. The case in hand does not fall within any of such parameters.

Consequently, I do not find any merit in this appeal which is accordingly dismissed.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

Crl.Rev.No.2222 of 2006

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Present:- Mr.H.S.Sullar, Advocate for the petitioner.

Mr.R.D.Sharma, DAG, Haryana.

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After hearing learned counsel for the parties at length, I am satisfied that no case for interference by this Court is made out.

Consequently, this petition is disposed of with liberty to the petitioner to raise all the pleas, as raised in this petition, before the learned trial Court at an appropriate stage and the same shall be gone into in accordance with law.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.W.P. No.1037 of 2006
Date of Decision:- 20.02.2007

Ruldu Ram ....Petitioner(s)

through
By post.

vs.

State of Punjab ....Respondent(s)

through
Mr.B.S.Baath, AAG, Punjab.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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SURYA KANT, J.

Reply filed on behalf of the respondents in Court is taken on record.

As per the averments made in the reply, a notice dated 7.11.2006 under Section 160 Cr.P.C. was issued to Varinder Kumar @ Pinna son of Kushdev Chand in case F.I.R.No.125 dated 29.7.2005 registered under Sections 419, 420, 467, 471, 120-B IPC at Police Station, Rampura. It is further averred that the said Varinder Kumar refused to accept the notice, however, he later on appeared in the Police Station, Rampura before the SHO and after being questioned in the said case, he was let off. The allegation of illegal detention of said Varinder Kumar is specifically denied.

In this view of the matter, no further action is called for.

Disposed of.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.54386-M of 2006
Date of Decision:- 20.02.2007

Bikramjit Singh & anr. ....Petitioner(s)

through
Mr.D.S.Pheruman, Advocate

vs.

State of Punjab & ors. ....Respondent(s)

through
Mr.B.S.Baath, AAG, Punjab.
Mr.Chanchal K.Singla,
Advocate for C.B.I.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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SURYA KANT, J.

In this petition under Section 482 Cr.P.C., the petitioners have come up for issuance of a direction to the respondents to register a cross-case against the opposite party and thereafter to hand over investigation of case F.I.R.116 dated 12.6.2006 under Sections 302, 307, 34 IPC read with Sections 25, 54, 59 of the Arms Act registered at Police Station Lopoke, Police District Majitha, to some independent agency.

It may be stated here that petitioner No.1 is facing trial in the above-stated F.I.R. for committing the alleged murder of one Makhan Singh. Petitioner No.2 is his mother.

The gravamen of the allegations is that it was the opposite party which forcibly entered on the land of the petitioners and attacked them. To substantiate the said plea, learned counsel for the petitioners relies upon an enquiry report dated 5.7.2006 purported to have been submitted by the Crime Branch of the Punjab Police, a copy of which has been appended as Annexure P-7 with the Rejoinder.

On the other hand, the stand of the respondents/investigating agency is that much before the enquiry conducted by the Crime Branch, pursuant to which the report Annexure P-7 is stated to have been submitted, the case was investigated by the local police and a chargesheet was presented, whereafter charges have been framed against petitioner No.1. It is also the case of the learned State counsel that before conducting enquiry/investigation, the Crime Branch did not obtain any permission from the learned trial Court nor the Court issued any direction for further investigation in terms of Section 173 (8) Cr.P.C.

After hearing learned counsel for the parties at length and going through the report Annexure P-7 which is being relied upon by the petitioners, I am of the considered view that the entire matter has to be left to the discretion of the learned trial Court. While the petitioners shall be at liberty to rely upon the report of the Crime Branch (Annexure P-7) at an appropriate stage, it is for the learned trial Court to test the veracity thereof and thereafter to take appropriate action in accordance with law. Needless to say that if the learned trial Court finds the said report trustworthy, an appropriate direction to take action against those who, according to the petitioners, were the aggressors, shall automatically follow.

With these observations and directions, this petition is disposed of.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Rev. No.1235 of 2006 (O&M)
Date of Decision:- 20.02.2007

Brij Bhushan & ors. ....Petitioner(s)

through
Mr.T.P.S.Tung, Advocate

vs.

State of Punjab & anr. ....Respondent(s)

through
Mr.B.S.Baath, AAG, Punjab.

***

CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

***

SURYA KANT, J.

This Criminal Revision Petition is directed against the order dated 30.1.2006 vide which charges under Sections 3, 4, 5, 6, 8, 9, 14, 15, 18 and 21 of the Punjab Apartment and Properties Regulation Act, 1995 have been framed against the petitioners.

Two-fold contentions have been raised. Firstly, it is argued that petitioner No.1 is in Government service, therefore, prior sanction of the Competent Authority was *sine qua non* for his prosecution. Secondly, the land purchased by the petitioners allegedly falls within the urban area, therefore, the provisions of the above-noticed Act are not attracted.

So far as the first contention is concerned, admittedly the sale transaction whereby the petitioners have purchased the piece of land has nothing to do with the performance of official duties by petitioner No.1. No sanction, therefore, was required to prosecute him.

As far as the second plea is concerned, the petitioners are entitled to raise the same at an appropriate stage before the learned trial Court and needless to say, the same shall be gone into in accordance with law.

It is well settled that at the stage of framing of charges, the Court is required to form a *prima facie* opinion only and it is not required to pass a detailed order which may directly or indirectly tinker with merits of the case.

Consequently, I do not find any merit in this revision petition which is accordingly dismissed, however, with liberty as noticed above.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

Crl.Misc. No.7633-M of 2007

****

Present:- Mr.R.D.Sharma, DAG, Haryana.

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Mr.R.D.Sharma, learned DAG, Haryana has placed on record the written instructions from the Superintendent, District Jail, Gurgaon vide memo No.2081 dated 19.2.2007.

As per the contents of the aforesaid letter, the husband of the petitioner has already undergone total sentence of 19 years, 10 months and 11 days. It is also stated that vide letter No.1465 dated 8.2.2007 the case of the husband of the petitioner for his release has already been submitted to the State Level Committee for its approval.

In view of the above-stated stand taken by the respondents, this petition is disposed of with a direction to the State Level Committee to hold its meeting as early as possible but not later than four weeks from today and take an appropriate decision on the recommendations already received by it in respect of release of the petitioner's husband.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.1147-M of 2007
Date of Decision:- 20.02.2007

Jagjeevan Singh ....Petitioner(s)

through
Mrs.B.P.K.Brar, Advocate

vs.

State of Punjab & ors. ....Respondent(s)

through
Mr.B.S.Baath, AAG, Punjab.

***

CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

***

SURYA KANT, J.

In this petition, the petitioner seeks a direction to the respondents to release him on parole for four weeks under Section 4 (1) (d) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962. It is averred that an application for the aforesaid release was submitted by the petitioner to the Jail Authorities on 27.11.2006 which was duly recommended by the Gram Panchayat of the village also. However, no final decision has been taken so far.

After hearing learned counsel for the parties and without expressing any views on the merits of the petitioner's claim, this petition is disposed of with a direction to the Additional Director General of Police, Punjab (Jails) to take a decision in accordance with law on the application which is stated to have been made by the petitioner for his release on parole, within a period of two months from the date of receipt of certified copy of this order.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.1144-M of 2007
Date of Decision:- 20.02.2007

Jeet Singh @ Jeeta ....Petitioner(s)

through
Mrs.B.P.K.Brar, Advocate

vs.

State of Punjab & anr. ....Respondent(s)

through
Mr.B.S.Baath, AAG, Punjab.

***

CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

***

SURYA KANT, J.

The petitioner, who is a convict under Section 15 of the N.D.P.S. Act and is undergoing sentence of 10 years' rigorous imprisonment, has been denied parole on the ground that there is an apprehension of breach of peace and he can also become proclaimed offender.

In order to dislodge the above-stated reason, it is pointed out by learned counsel for the petitioner that no other such like case has ever been registered or is pending against the petitioner. It is argued that the petitioner has a family in the village consisting of small children and he has got landed properties too. Reliance has also been placed upon the recommendation of the Gram Panchayat in support of the petitioner's release on parole.

After hearing learned counsel for the parties, it appears that the petitioner's case requires reconsideration by the Authorities.

If the petitioner is not a habitual offender and his conduct and behaviour while in jail is also good, there appears to be no reason not to

release him on parole. That apar, various remedial measures can be taken by the Authorities to ensure that concession of parole cannot be misused. Besides furnishing heavy personal bonds, the petitioner can be asked to produce two sureties in the like amount, who should be office bearers of the Gram Panchayat and/or other respectables of the village. The petitioner can also be asked to report to the Police Station concerned intermittently during the period of parole.

Consequently and for the reasons aforesaid, this petition is allowed to the extent that the impugned order dated 5.9.2006 (Annexure P2/T) is quashed and a direction is issued to the Additional Director General of Police (Jails), Punjab, to reconsider the petitioner's case to release him on parole. Necessary decision in this regard shall be taken within a period of two months from the date of receipt of certified copy of this order.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

Crl.Misc.No.1051-M of 2007

****

Present:- Mr.P.P.S.Tung, Advocate for the petitioner.

Mr.B.S.Baath, AAG, Punjab.

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As requested by Mr.Baath, learned Assistant Advocate General, Punjab, adjourned to 3.4.2007.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

Crl.Misc.No.979-M of 2007

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Present:- Mr.P.P.S.Tung, Advocate for the petitioner.

Mr.B.S.Baath, AAG, Punjab.

****

Reply filed on behalf of the respondents is taken on record.

To come up for arguments on 15.3.2007.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.71886-M of 2006
Date of Decision:- 20.02.2007

Jai Pal ....Petitioner(s)

through
Mrs.Sarla Chaudhary, Advocate

vs.

State of Haryana & anr. ....Respondent(s)

through
Mr.R.D.Sharma, Sr. DAG, Haryana.

***

CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

***

SURYA KANT, J.

The petitioner, who has been taken into custody only 21.2.2006 and is a life convict under Section 302/34 IPC, has been denied parole for house repairs on the ground that there is an apprehension of breach of peace in the village and his house in village Narsinghpur can be got repaired by other family members.

Similar stand has been taken in the written statement also.

Since the petitioner has surrendered very recently, it is difficult to believe that in such a short span, the condition of his house has become so dilapidated that it requires urgent repairs. Consequently, no exception can be taken to the impugned order.

However, if in future the petitioner's house requires any genuine repairs, he may move another application along with supporting material and the same shall be considered and disposed of by the Competent Authority within a period of three months from the date of its receipt.

Disposed of.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.69012-M of 2006
Date of Decision:- 20.02.2007

Rajesh ....Petitioner(s)

through
Mr.H.L.Bhatia, Advocate

vs.

State of Haryana & ors. ....Respondent(s)

through
Mr.R.D.Sharma, Sr. DAG, Haryana.

***

CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

***

SURYA KANT, J.

The petitioner, who is a life convict, has been denied parole for house repairs on the ground that as per the report of the District Magistrate, Banka (Bihar), his case for parole has not been recommended and as such it is not possible to release him.

In the written statement, the respondents have come up with the plea that the report has been obtained and it has been found that the petitioner's house is in good condition and it does not require any repairs.

So far as the reason assigned in the impugned order is concerned, the same is quite vague and evasive, therefore, it cannot sustain. No reason appears to have been assigned by the District Magistrate as to why the petitioner's case was not recommended.

However, the reason assigned in the written statement which is based upon the police report (Annexure R-1) it is apparent that the petitioner's house does not require any repairs. Obviously, the petitioner has failed to make out a case of “sufficient cause” under Section 3(1)(d) of the Act. Consequently no interference in the impugned order is called for.

However, if in future the petitioner's house requires any genuine repairs, he may move another application along with supporting material and the same shall be considered and disposed of by the Competent Authority within a period of three months from the date of its receipt.

Disposed of.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.68269-M of 2006
Date of Decision:- 20.02.2007

Ved Pal ....Petitioner(s)

through
Mr.Gurinderjit Singh, Advocate

vs.

State of Haryana ....Respondent(s)

through
Mr.R.D.Sharma, Sr. DAG, Haryana.

***

CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

***

SURYA KANT, J.

Reply filed on behalf of the respondent is taken on record.

The petitioner, who is a life convict has been denied parole for house repairs on the ground that his house is in good condition and does not require any repairs.

Similar stand has been taken by the respondent in the written statement filed in Court today.

It is apparent from the impugned order as well as the written statement that there exists no "sufficient cause" in terms of Section 3(1)(d) of the Act and, thus, no exception can be taken to the impugned order passed by the Competent Authority.

However, if in future the house of the petitioner requires any genuine repairs, liberty is granted to him to move an application along with supporting materia. As and when such an application is moved by the petitioner, the respondent-Authorities are directed to consider and dispose of the same in accordance with law within a period of three months from the date of its receipt.

Disposed of.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.68271-M of 2006
Date of Decision:- 20.02.2007

Bhal Singh ....Petitioner(s)

through
Mr.Gurinderjit Singh, Advocate

vs.

State of Haryana ....Respondent(s)

through
Mr.R.D.Sharma, Sr. DAG, Haryana.

***

CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

***

SURYA KANT, J.

The petitioner, who is a life convict has been denied parole for house repairs on the ground that his house is in good condition and does not require any repairs.

Similar stand has been taken by the respondent in the written statement.

It is apparent from the impugned order as well as the written statement that there exists no "sufficient cause" in terms of Section 3(1)(d) of the Act and, thus, no exception can be taken to the impugned order passed by the Competent Authority.

However, if in future the house of the petitioner requires any genuine repairs, liberty is granted to him to move an application along with supporting material. As and when such an application is moved by the petitioner, the respondent-Authorities are directed to consider and dispose of the same in accordance with law within a period of three months from the date of its receipt.

Disposed of.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.66004-M of 2006
Date of Decision:- 20.02.2007

Ranjeet Singh ....Petitioner(s)

through
Ms.Sadhna Trikha, Advocate

vs.

State of Haryana & ors. ....Respondent(s)

through
Mr.R.D.Sharma, Sr. DAG, Haryana.

***

CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

***

SURYA KANT, J.

The petitioner, who is a life convict for an offence under Section 302/34 IPC, is aggrieved at the order dated 3.10.2006 (Annexure P-1) passed by the Director General of Prisons (Jail), Haryana whereby he has been denied temporary release on parole for agricultural purposes on the ground that there is no agricultural land in possession of the petitioner.

Relying upon a copy of Jamabandi for the year 2001-2002 (Annexure P-2), it is contended that the petitioner's father owns some agricultural land. It is also claimed that the land owned by the petitioner's father is undivided agricultural land which used to be cultivated by the petitioner before his conviction.

Under Section 3(1)(c) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 a prisoner is required to be in cultivating possession of the agricultural land either owned by himself or his father's undivided agricultural land. It is quite possible that prior to his conviction, he was also in cultivating possession of the undivided agricultural land owned by his father. Unfortunately, the aforesaid aspect of the matter has

not been considered by the concerned authorities.

Consequently, this petition is disposed of with a direction to the Director General of Prisons, Haryana to reconsider the petitioner's case after getting it reverified as to whether or not immediately prior to his conviction, the petitioner was in cultivating possession of the undivided agricultural land owned by his father. Necessary exercise shall be carried out within two months from the date a certified copy of this order is received.

Disposed of.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.66004-M of 2006
Date of Decision:- 20.02.2007

Ranjeet Singh ....Petitioner(s)

through
Ms.Sadhna Trikha, Advocate

vs.

State of Haryana & ors. ....Respondent(s)

through
Mr.R.D.Sharma, Sr. DAG, Haryana.

***

CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

***

SURYA KANT, J.

The petitioner, who is a life convict for an offence under Section 302/34 IPC, is aggrieved at the order dated 3.10.2006 (Annexure P-1) passed by the Director General of Prisons (Jail), Haryana whereby he has been denied temporary release on parole for agricultural purposes on the ground that there is no agricultural land in possession of the petitioner.

Relying upon a copy of Jamabandi for the year 2001-2002 (Annexure P-2), it is contended that the petitioner's father owns some agricultural land. It is also claimed that the land owned by the petitioner's father is undivided agricultural land which used to be cultivated by the petitioner before his conviction.

Under Section 3(1)(c) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 a prisoner is required to be in cultivating possession of the agricultural land either owned by himself or his father's undivided agricultural land. It is quite possible that prior to his conviction, he was also in cultivating possession of the undivided agricultural land owned by his father. Unfortunately, the aforesaid aspect of the matter has

not been considered by the concerned authorities.

Consequently, this petition is disposed of with a direction to the Director General of Prisons, Haryana to reconsider the petitioner's case after getting it reverified as to whether or not immediately prior to his conviction, the petitioner was in cultivating possession of the undivided agricultural land owned by his father. Necessary exercise shall be carried out within two months from the date a certified copy of this order is received.

Disposed of.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.65898-M of 2006
Date of Decision:- 20.02.2007

Ramkishan ....Petitioner(s)
through
Mr.Sachin Kapoor, Advocate

vs.

State of Haryana & anr. ....Respondent(s)
through
Mr.R.D.Sharma, Sr. DAG, Haryana.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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SURYA KANT, J.

The petitioner, who is undergoing 4 years' rigorous imprisonment, has been denied parole for house repairs on the ground that his house is in good condition and if any repairs are required, the same can be carried out by his wife and three children.

The first reason assigned in the impugned order fully justifies denial of parole to the petitioner inasmuch as if his house is in good condition, no case of "sufficient cause" under Section 3(1)(d) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 is made out.

Consequently, no interference in the impugned order is called for. However, if at a later stage, the petitioner is informed that his house genuinely requires repairs, liberty is granted to him to move another application and make out a case of "sufficient cause" and if any such application is moved by him, the same shall be considered and disposed of in accordance with law within a period of three months from the date of its receipt.

Disposed of.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.65382-M of 2006
Date of Decision:- 20.02.2007

Harpal Singh ....Petitioner(s)

through
Mr.A.S.Trikha, Advocate

vs.

State of Punjab & ors. ....Respondent(s)

through
Mr.B.S.Baath, AAG, Punjab.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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SURYA KANT, J.

The petitioner seeks a direction for his release on parole to meet his family members.

The respondents, however, have opposed the petitioner's prayer on the ground that he is a habitual offender who has been sentenced and/or facing trial in various cases.

The fact that the petitioner has been sentenced to undergo rigorous imprisonment for 20 years with a fine of Rs.2 lacs under the N.D.P.S.Act, does indicate that the learned Sessions Judge, was satisfied that the petitioner is a hardened criminal.

It appears that the release of the petitioner on parole at this stage would endanger the public order and apprehension expressed by the respondents that he may again indulge in illegal activities of business of narcotics, cannot be said to be without any basis.

Consequently, I do not find any merit in this petition which is accordingly dismissed.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.63938-M of 2006
Date of Decision:- 20.02.2007

Sukhwinder Singh ....Petitioner(s)

through
Mr.R.D.Budhwar Advocate

vs.

State of Haryana & ors. ....Respondent(s)

through
Mr.R.D.Sharma, Sr. DAG, Haryana.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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SURYA KANT, J.

The petitioner, who is undergoing rigorous imprisonment for 10 years for an offence under Sections 304-B, 498-A IPC, is aggrieved at the order dated 18.9.2006 (Annexure P-2) passed by the Director General of Prisons, Haryana whereby he has been denied temporary release on parole for agricultural purposes on the ground that there is no agricultural land in possession of the petitioner.

Relying upon a copy of Jamabandi for the year 2003-2004 (Annexure P-3), it is contended that the petitioner's father owns some agricultural land. It is also claimed that the land owned by the petitioner's father is undivided agricultural land which used to be cultivated by the petitioner before his conviction.

Under Section 3(1)(c) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 a prisoner is required to be in cultivating possession of the agricultural land either owned by himself or his father's undivided agricultural land. It is quite possible that prior to his conviction, he was also in cultivating possession of the undivided agricultural land

owned by his father. Unfortunately, the aforesaid aspect of the matter has not been considered by the concerned authorities.

Consequently, this petition is disposed of with a direction to the Director General of Prisons, Haryana to reconsider the petitioner's case after getting it reverified as to whether or not immediately prior to his conviction, the petitioner was in cultivating possession of the undivided agricultural land owned by his father. Necessary exercise shall be carried out within two months from the date a certified copy of this order is received.

Disposed of.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.40556-M of 2006
Date of Decision:- 20.02.2007

Zile Singh etc. ....Petitioner(s)

through
Mr.Deepak Gupta, Advocate

vs.

State of Haryana & ors. ....Respondent(s)

through
Mr.R.D.Sharma, Sr. DAG, Haryana.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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SURYA KANT, J.

The prayer in this petition is to direct the respondents to release the petitioners from jail, as according to them, they have undergone the entire period of sentence awarded to them. The petitioners also seek a further direction that the period of paroles availed by them from time to time be counted towards the total period of sentence undergone by them.

(2) The petitioners were convicted by the learned Additional Sessions Judge, Ambala vide his judgment dated 26.5.2003 in case F.I.R.No.84 dated 1.12.1995 registered at Police Station Raipur Rani, District Ambala, under Sections 148/323/324/307/302 read with Section 149 IPC and Sections 25/27/54/59 of the Arms Act, 1958. As per the details given in para 5 of the petition, each one of them has availed different kinds of paroles while undergoing the sentence.

(3) In the petition as well as during the course of hearing, reliance has been placed upon the judgment of the Constitution Bench of the Hon'ble Supreme Court in the case of **Sunil Fulchand Shah etc.** *vs.* **Union of India & ors.**, JT 2000 (2) SC 230. It is argued that in terms

of the mandate contained in the above-cited judgment, the period for which a prisoner is temporarily released on parole to meet certain situations, is liable to be counted towards the total period of detention. It is the case of the petitioners that if the period of paroles availed by them, is counted towards the total period of detention, each one of them has undergone the total sentence finally awarded to them by this Court in Crl.Appeal No.524-DB of 2003 decided on May 16, 2006.

(4) On the other hand, the respondents have opposed the prayer made in this petition, *inter alia,* on the ground that under Section 3 (3) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988,(in short the Act) the Legislature has expressly provided that "the period of release under this Section shall not count towards the total period of sentence of a prisoner." Reliance has been placed upon a later judgment of the Hon'ble Supreme Court in the case of **Avtar Singh** vs. **State of Haryana and another**, 2002 (3) SCC 18 wherein the Hon'ble Supreme Court after explaining the Constitution Bench judgment in **Sunil Fulchand Shah 's case** (supra) and in specific reference to Section 3 (3) of the Act, has categorically held that since by virtue of a valid piece of legislation the period of temporary release on parole has been denied while counting the actual sentence undergone by a prisoner, the said period cannot be counted towards the total period of detention of the petitioners.

(5) In **Sunil Fulchand Shah's case** (supra), the Hon'ble Supreme Court held that:-

> "Since, release on parole is only a temporary arrangement by which a detenu is released for a temporary fixed period to meet certain situations, it does not interrupt the

period of detention and, thus, needs to be counted towards the total period of detention unless the rules, instructions or terms for grant of parole, prescribe otherwise. The period during which parole is availed of is not aimed to extend the outer limit of the maximum period of detention indicated in the order of detention. The period during which a detenu has been out of custody on temporary release on parole, unless otherwise prescribed by the order granting parole, or by rules or instructions, has to be included as a part of the total period of detention because of the very nature of parole."

(Emphasis applied)

(6) Since in the State of Haryana, the Legislature by enacting sub-section (3) of Section 3 of the Act has expressly excluded the period of parole from the total period of detention, the claim put forth by the petitioner in this petition is wholly misconceived and cannot sustain, as held by the Hon'ble Apex Court in **Avtar Singh's case** (supra).

(7) Consequently, I do not find any merit in this petition which is accordingly dismissed.

February 20, 2007 **(SURYA KANT)**
poonam **JUDGE**